



NATIONAL HIGH SCHOOL ETHICS BOWL

2021-2022 Regional Case Set

Contents

A NOTE FROM THE NHSEB

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2021-2022 REGIONAL CASE COMMITTEE

CHAIR Alex Richardson

CONTRIBUTORS Tylor Cunningham, Ramona Ilea, Audra Jenson, Joanna Lawson, Marko Mavrovic, John Miller, Sally Moore, Z Quanbeck, Alex Richardson, Alyse Spiehler, Meredith Sheeks, Ehsan Sheikholharam, Delaney Thull, Dustin Webster

EDITORS Roberta Israeloff, Jordan Lifer, Steve Michelman, Sally Moore, Delaney Thull, Michael Vazquez

1. The Social (Experiment) Network

Across the globe, Facebook users utilize the platform in a variety of ways, and more than a third of adults report regular use of Facebook as a news source.¹ Behind each user's news feed is an algorithm that controls what that user will or will not see. The algorithm is based on a collection of factors—including which types of posts a user interacts with and what their Facebook friends are posting about. At one level, this process is practical. When a given user opens their news feed, there are thousands of posts that Facebook could show them. Processing through such a large number of posts would be overwhelming to the user. So, the algorithm streamlines a mere hundred posts to the user and selects posts that will presumably keep them coming back for more.²

However, some types of algorithm tinkering seem different. In 2012, Facebook intentionally altered the news feed algorithm of hundreds of thousands of users in order to conduct a psychological experiment.³ The experiment was designed to measure whether or not emotional states are contagious via social media networks, as they can be with in-person interactions. By changing the number of positive or negative posts that users would see, researchers concluded that, indeed, emotional states are contagious via a social media network.⁴ The experiment's findings are informative, but many have questioned whether Facebook was morally justified in conducting such an experiment in the way it did.

Facebook withheld experimental information from hundreds of thousands of users about how the emotional tone of their news feeds was being directly and intentionally altered. Moreover, Facebook users were unaware that they were the subjects of a psychological experiment designed to impact their moods. However, Facebook users consent to the intentional alteration of their news feeds when they agree to the terms of service. So, defenders argue that Facebook had the requisite permission of its users to use them in the psychological experiment, regardless of whether or not the users were explicitly aware of their participation in the experiment or their consent to it.

DISCUSSION QUESTIONS

1. Are social media companies like Facebook ever morally permitted to conduct psychological research on their users without the direct knowledge of those users?
2. To what extent, if any, does the tacit consent of social media users—i.e., their agreement to the terms and conditions of utilizing a social media platform—grant social media companies the moral permission to conduct psychological experiments on them?
3. Under what circumstances, if any, might social media companies have a moral obligation to intentionally alter their algorithms or to modify what certain users see on their news feed?

¹ <https://www.pewresearch.org/fact-tank/2021/06/01/facts-about-americans-and-facebook/>

² <https://www.facebook.com/business/news/News-Feed-FYI-A-Window-Into-News-Feed>

³ <https://www.nytimes.com/2014/06/30/technology/facebook-tinkers-with-users-emotions-in-news-feed-experiment-stirring-outcry.html>

⁴ <https://www.pnas.org/content/pnas/111/24/8788.full.pdf>

2. Suffering in the Wild

Throughout most of human history, we have lacked the capacity to significantly reduce wild animal suffering. Recently this has changed. In some countries, wild animal populations are currently being vaccinated against diseases, such as rabies, that threaten domesticated animals or humans. In the future, larger-scale interventions may become feasible, as there are ongoing research efforts to explore effective ways of reducing the suffering of wild animals.⁵ Potential methods to reduce wild animal suffering include birth control and more extensive disease management. Even more ambitiously, some argue that gene editing technologies could be used to reduce the ability of wild animals to feel pain, change the reproductive strategies of animals so they have fewer offspring, or turn carnivores into herbivores.⁶

In recent years, some philosophers, zoologists, and animal rights activists have argued that when it is in our power to reduce the suffering of wild animals without significant unintended negative consequences, we ought to do so. Since wild animal suffering is bad, we ought to prevent it if we can, as long as we don't thereby sacrifice anything of comparable moral importance. At the very least, some argue, we should invest more resources in researching potential interventions and their possible ecological effects. And others reason that since human actions already have massive effects on wild animals (via climate change and habitat destruction, for example), we should do our best to make our overall impact on wild animals a more positive one.

However, some critics worry that disrupting complex, dynamic ecosystems may, despite our best efforts, produce significant negative unintended consequences. Relatedly, some feel that by intervening, we are meddling with the natural order, or coercively interfering with the lives of wild animals in an objectionable way. Others argue that rather than devoting our attention to the suffering of wild animals not caused by human activity, we should focus on the suffering of non-human animals for which humans are responsible (such as the suffering of factory-farmed animals). Moreover, some critics argue that the scale of wild animal suffering is so large that there is unlikely to be a feasible, cost-effective way to address it. And others object that more radical proposals to reduce wild animal suffering—such as eliminating carnivores—require the mass extinction of species which bear sacred, irreplaceable, or intrinsic value.

DISCUSSION QUESTIONS

1. Should we intervene to reduce the suffering of wild animals if we can safely and effectively do so?
2. When is intervening to help others morally permissible or morally required, and when is it objectionably coercive or paternalistic?
3. Does being “natural” make something more valuable or worth preserving?

⁵ Organizations promoting this research include Animal Ethics (<https://www.animal-ethics.org/wild-animal-suffering-section>), Wild Animal Initiative (<https://www.wildanimalinitiative.org>), and Rethink Priorities (<https://rethinkpriorities.org/animal-welfare>).

⁶ <https://opinionator.blogs.nytimes.com/2010/09/19/the-meal-eaters>

3. Predictive Policing

Recently, the Pasco County Sheriff's Office (PCSO) in Florida sent out a letter to some of its residents informing them that they had been selected to be enrolled in the Prolific Offender Program. Here is an excerpt from the opening lines:

This program provides you with an opportunity to receive assistance from the Pasco Sheriff's Office and several community partners who will work with you to identify and overcome barriers that have hindered you in your life's journey. Ultimately, the goal of this program is to empower you to live a lawful, productive and fulfilled life.⁷

The program uses various metrics, including, "an evaluation of your recent criminal behavior using an unbiased, evidence-based risk assessment" in order to identify what it called, "prolific offenders in our community." The letter claims that barriers to "successful living" include struggles with mental health, substance abuse, domestic violence, homelessness, and employment. Enrollment is based on those criteria. Enrollees who refrain from criminal activity for two years are removed from the program.

PCSO also created a program designed to detect potential crimes and stop them before they happen.⁸ To do this, the office would use a variety of metrics including "arrest histories, social networks, and unspecified intelligence in order to create a list of potential criminals."⁹ They would then use the list to preemptively investigate these individuals and perform regular checks on them.

PCSO and its supporters claim that these are innovative ways to prevent crime and to conduct policing in a less reactionary manner. By using known metrics that lead to criminal activity, police might be able to intervene before someone even has the opportunity to commit a crime. Part of this prevention might involve providing would-be offenders with the support they need in order to cut down on potential risk factors, including mental health care, support for substance abuse disorders, assistance in finding work or a place to live, and so on.

People who oppose these kinds of programs claim that it is overreaching and authoritarian. It leads to the kind of over-policing witnessed in the case where "deputies gave the mother of one teenage target a \$2,500 fine because she had five chickens in her backyard." Having some risk-factors associated with criminal activity is a far cry from actually committing crimes. Furthermore, regardless of how likely someone is to fall into criminal activity, perhaps no one should be subject to intervention and investigation until they actually commit a crime.

DISCUSSION QUESTIONS

1. What difference is there between predictive policing tactics that focus on prior offenders and those predictive policing tactics which focus on preventing non-offenders from becoming offenders?
2. Is it responsible for police departments to try to participate in preventative policing by stopping crimes before they happen? Is there a right and a wrong way to go about doing that?
3. Is there ever a time when certain "risk factors" should ever be considered in beginning an investigation?
4. Does something like the Prolific Offender Program run contrary to a notion in our justice system of "innocent until proven guilty?" Does it assume guilt on behalf of those that it enrolls in the program?

⁷ https://s3.documentcloud.org/documents/21015592/pso_letter-1.pdf

⁸ <https://projects.tampabay.com/projects/2020/investigations/police-pasco-sheriff-targeted/intelligence-led-policing/>

⁹ <https://www.tampabay.com/investigations/2021/07/24/pasco-sheriffs-office-letter-targets-residents-for-increased-accountability/>

4. AppleScare

One of the most enduring and fraught discussions centering upon privacy and technology is the practice of encrypting messages and files on mobile devices. We are promised that our personal devices are entirely private. At the same time, tech companies are struggling with the demands of governments to give access to the data circulating on our phones.

Law enforcement officials have frequently submitted legal orders to major tech companies such as Apple, Google, and Microsoft to hand over the contents of messages, photos, and files on consumers' phones for criminal investigations. Yet, not all data on our phones is so easily accessible. In the interest of protecting user privacy, and perhaps out of concern for governmental abuse (whether by the United States or foreign entities), software developers created "end-to-end" encrypted chat apps (e.g. WhatsApp, Snapchat). These apps secure and hide the contents of a message until it reaches the other user's phone. Only the two end users hold the decryption key; as a result, the phone-maker does not have the ability to hand over data because it was never readable on their servers in the first place.

Law enforcement and government officials have claimed emphatically that disclosures of user data are necessary to combat terrorism, assure national security, and curb violent crime. One such area of concern is systemic child trafficking and child pornography.

In the spring of 2021, Apple disturbed the waters of this uneasy truce over encrypted communication. The tech giant partnered with the National Center for Missing & Exploited Children to formulate a way to scan the hard drives of iPhones for known "Child Sexual Abuse Material" (CSAM). This practice, first employed in limited contexts by the FBI, converts each known image of CSAM in its database into a unique numerical identifier. Meanwhile, every iPhone will regularly run the same algorithm—behind the scenes—to likewise convert files and photos on phones into numeric values. If there is a numeric match between the CSAM database and a file on a user's phone, it raises a red flag to Apple that the phone owner is in possession of problematic material.

Apple insists that its software and algorithm does not "see" user images. Instead, the algorithm blindly converts images to numerical values (called a "hash") and then simply looks for matches between user files and hashes in the criminal database. Thus, according to Apple, parents who take pictures of their infant children taking a bath, for instance, have nothing to worry about, because such pictures will not correspond to any pattern of known CSAM.

DISCUSSION QUESTIONS

1. How can tech companies reconcile the demands of law enforcement agencies with the demands of users for privacy?
2. To what degree, if at all, should government agencies be trusted with looking over our "private" data?
3. The same messaging encryption which lets investigative journalists communicate safely is also employed by violent criminals and terrorist actors. Is such encryption necessary for a free society? Is it a danger to social stability?

5. 23 & Memaw

Nancy, who is in her late 50s, and two of her maternal cousins gave each other gene testing kits for Christmas this year, so that they could discover their ancestral genetic profiles. They fully expected to learn the same information about their maternal family members, as their three mothers are sisters. They were interested to learn how their three different fathers impacted their genetic profiles. However, when they received their results, they uncovered something surprising. Nancy's maternal information is slightly different from her two cousins'.

It turns out that Nancy's mother and her aunts most likely have different fathers. So, this means that Nancy's grandmother Barbara most likely committed infidelity in her marriage with Nancy's grandfather. Nancy and her cousins are faced with the question of whether or not to tell Nancy's mother, who is in her late 80s. Her cousins' mothers, Nancy's aunts, have already passed away, as have both of her grandparents. She has asked her cousins not to say anything to her mother or to anyone else in their family, while she decides what to do.

Nancy never met her grandfather, as he died just before she was born. But Nancy knows that her grandmother Barbara and her grandfather had a very fraught marriage. Her grandfather was an alcoholic and was known to be verbally abusive and financially controlling to her grandmother Barbara. Nancy has always avoided alcohol, assuming that she might have inherited a genetic predisposition to alcoholism from her grandfather, as several of her cousins have struggled with excessive drinking as well. She feels drawn to the idea that her grandmother Barbara found some happiness outside of an abusive marriage, and she doesn't mind thinking of her mother and herself as the results of her grandmother Barbara finding some independence. She is curious to talk with her mother about the possibility that they aren't descended from the man they have always assumed was their father and grandfather. She would be interested in learning more information about her grandparents' close friends, community and church members, or colleagues, on the off chance that she might be able to discover information that would lead her to her biological grandfather and potentially to other biological family members.

However, Nancy's family is religious and they have strong beliefs about the importance of marriage and of being faithful to a spouse. Nancy feels like her mother has a right to know this information about her own parents and ancestry. And, her mother has only ever talked bitterly about her relationship with her father. Yet, she knows that this information might be deeply distressing to her mother. Though Nancy's mother never seemed to express love for her father, she always talked with deep love and respect for her mother Barbara and held her up to Nancy as a role model of virtue and of religious faith. Nancy worries that revealing this information to her mother might cause her to question her relationship with her mother Barbara and to endure pain and sadness upon realizing that her mother Barbara kept secrets from her. Also, Nancy's mother suffers from health problems and receives a twice-weekly home visit from a nurse. The nurse has advised Nancy that protecting her mother from stress is important for keeping her health stable.

DISCUSSION QUESTIONS

1. Should Nancy tell her mother about her suspicions? Is it at all significant that there is some degree of uncertainty about the conclusion she is drawing?
2. How do her mother's health concerns factor into this decision?
3. Do we owe others, especially those near and dear, the hard truth? What if they would be "better off" not knowing?
4. How, if at all, do the facts about Nancy's grandmother Barbara's fraught relationship with her grandfather change the moral dimensions of Nancy's decision?

6. Art with an Asterisk

The National Gallery of Art in Washington decided to indefinitely postpone a Chuck Close exhibition after the artist was accused of making lewd comments to and asking invasive questions about potential portrait models. While Close called the allegations “lies,” this news resurfaced the question of “whether the work of [...] artists accused of questionable conduct needs to be revisited or recontextualized.”¹⁰ Outside of the art galleries, similar questions have been asked about a range of prominent members of the entertainment industry—from Harvey Weinstein and Kevin Spacey to Louis C. K. and Bill Cosby—whose careers were extinguished by sexual harassment and assault accusations, even before a courtroom determined guilt.

What role do those who curate the art play in determining an answer to this question? Amidst the accusations levied against Close, the National Gallery decided to postpone its exhibit indefinitely, but the Pennsylvania Academy of the Fine Arts opted to leave its exhibition featuring the artist open, altering it to become a space of dialogue.¹¹ Netflix went ahead with the final season of *House of Cards* without its main actor Kevin Spacey, but viewers can watch the previous 5 seasons of his portrayal of Frank Underwood without any asterisk affixed to the series or warning that the star might have been sexually predatory. These examples highlight the variety of ways organizations that house the art of disgraced artists have reckoned with this dilemma.

Some are more willing than others to separate the art from the artist, at least in certain cases. Jock Reynolds, the director of the Yale University Art Gallery, told *The New York Times*: “Pablo Picasso was one of the worst offenders of the 20th century in terms of his history with women. Are we going to take his work out of the galleries? At some point you have to ask yourself, is the art going to stand alone as something that needs to be seen?”¹²

Some argue that we should not endeavor to separate the art from the artist and instead explore what, if any, connection there is between Chuck Close’s alleged harassment of potential portrait models and the genre-defining portraiture he would create as a way of better understanding his art. As Amanda Hess notes, “If a piece of art is truly spoiled by an understanding of the conditions under which it is made, then perhaps the artist was not quite as exceptional as we had thought.” Perhaps seeing the artist’s asterisks is the way to truly appreciate the artist’s art.

DISCUSSION QUESTIONS

1. If it is possible to celebrate the art without excusing the transgressions of the artist, what form should that celebration take? If it is not, what becomes of the art?
2. Suppose the work is historically transformative and has produced an immeasurable amount of good for humanity—akin to a revolutionary advancement in technology or medicine. Does celebration of the art excuse the (possibly unrelated) transgression(s) of the artist?¹³
3. What does it mean to display art “with an asterisk?” How much consideration should curators give to the psychological safety of art consumers?

¹⁰ <https://www.nytimes.com/2018/01/28/arts/design/chuck-close-exhibit-harassment-accusations.html>

¹¹ <https://www.theguardian.com/artanddesign/2018/feb/15/chuck-close-art-sexual-harassment-pafa>

¹² <https://www.nytimes.com/2017/11/10/arts/sexual-harassment-art-hollywood.html>

¹³ <https://www.prindlepost.org/2018/11/is-it-okay-to-wear-a-house-of-cards-tshirt/>

7. Priorities, Priorities...

In the United States, COVID-19 cases continue to rise, and, this fall, reached the highest number of new cases since January of 2021.¹⁴ A consequence of this is an increased number of hospitalizations and COVID-19 patients in Intensive Care Units (ICUs). When ICU beds are full, states must activate standards for triage to guide hospitals in determining which patients receive access to the limited resources.¹⁵

As a result of the increased numbers, “about one in 4 U.S. hospitals with intensive care units, or 889 total hospitals, recently reported that at least 95 percent of their I.C.U. beds were full. In the week ending September 2, an average of 80 percent of intensive care hospital beds were occupied nationwide, according to a dataset released weekly by the Department of Health and Human Services.”¹⁶ As a result of the lack of beds, some people who need care for COVID-19 or for other medical issues either cannot receive it or have to be transferred outside of areas where their insurance can cover their treatment.

According to multiple studies reported on by the CDC, COVID-19 vaccines reduce the risk of COVID-19, “including severe illness” by 90% or more.¹⁷ The vaccine also helps to prevent the spread of the disease in general. Vaccines, however, are not mandatory, and the CDC simply recommends that you “get a COVID-19 vaccine as soon as you can.” Still, in the U.S., just over half of the population is fully vaccinated at 53.2%, with 62.5% of the population having received at least one dose at the time of this writing.¹⁸

The vast majority of people being hospitalized because of COVID-19 infections are unvaccinated.¹⁹ Since there is good reason to believe taking the vaccine might have prevented their hospitalizations, and they chose to remain unvaccinated, people have asked whether unvaccinated people should be allowed to occupy ICU beds that other people need, or whether they should at least be given a lower priority when it comes to triage considerations (excepting, of course, those who had legitimate medical reasons for remaining unvaccinated).

DISCUSSION QUESTIONS

1. Should personal choices (like whether to go snowboarding or whether to get vaccinated) be grounds for consideration when making triage decisions?
2. What role do individual autonomy and risk tolerance play when making medical decisions that can affect the public health of a broader society?
3. When, if ever, can doctors refuse to treat patients seeking care?

¹⁴ <https://www.nytimes.com/interactive/2021/us/covid-cases.html>

¹⁵ https://www.theguardian.com/us-news/2021/sep/08/idaho-crisis-standards-of-care-covid-coronavirus?CMP=oth_b-aplnews_d-1

¹⁶ <https://www.nytimes.com/interactive/2020/us/covid-hospitals-near-you.html>

¹⁷ <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/effectiveness/work.html>

¹⁸ https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total

¹⁹ <https://www.nytimes.com/interactive/2021/08/10/us/covid-breakthrough-infections-vaccines.html>

8. Just the Facts

On May 19, 2021, journalist Emily Wilder was fired from the *Associated Press* after three weeks on the job.²⁰ Wilder, who is Jewish, was fired after right-wing media sources began publicizing her involvement in pro-Palestine activism in college, and drew attention to tweets she had made about the topic.²¹ In late May 2021, Alexis Johnson was told by her employer, the *Pittsburgh Post-Gazette*, that she would not be allowed to cover the Black Lives Matter movement. Johnson, who is Black, was told this was because she had demonstrated bias in a tweet that she had posted the day before.²² Felicia Sonmez was banned in 2018 from reporting on cases dealing with rape and sexual assault at her job at the *Washington Post* after she wrote about her experience as a survivor of sexual violence.²³

Some people see these actions by news organizations as justified measures to protect the objectivity of the reporting in question. News organizations should strive for objectivity, and this is impossible when the person reporting has made it clear that they have strong personal views on the matter. Most reporters have opinions about the things they report on. However, they are expected to put these opinions to one side while they are reporting. It is inconsistent and irresponsible, one might argue, only to prevent those who are public about their opinions (or, in the case of Sonmez, their experiences) from reporting on controversial issues. It may also constitute discrimination.²⁴

What is better, say critics of objectivity, is to report the facts while also acknowledging one's (limited and biased) point of view. This is a sign of humility, and it may also have the benefit of opening up more ethical reporting standards. Perhaps shrugging off the myth of objectivity would release journalists from lending undue credence to what they take to be morally problematic stances, in the name of remaining neutral.²⁵

However, if objectivity and neutrality are completely discarded, some worry that this would effectively mean the end of fact-based reporting. This brings to the fore another important issue: trust. If media consumers find out that a story was written by someone who has an undisclosed personal stake in the matter, this might erode the trustworthiness of the reporting or the news outlet. This, according to Felicia Sonmez, is the reason that she was not allowed to cover stories involving sexual assault. "The reason I've repeatedly been given by senior editors," she said in a tweet, "is that they are worried about the 'appearance of a conflict of interest' if they allow me to write on sexual assault. They've told me they don't believe there's an actual conflict, or even that my writing would be biased in any way."²⁶ Thus, even if Sonmez can report responsibly on these issues, perhaps she should not be permitted to do so, given the fact that some readers might believe her to be untrustworthy.

DISCUSSION QUESTIONS

1. Do news organizations have an ethical duty to maintain a certain relationship to the general public? If so, what is the nature of that relationship?
2. In which contexts, if any, is it permissible for employers to restrict (or impose consequences for) their employees' speech outside of work hours?
3. What, if any, is the value of objectivity in journalism?

²⁰ <https://www.nytimes.com/2021/05/25/business/media/emily-wilder-associated-press-ap.html?searchResultPosition=2>

²¹ <https://www.mediaite.com/news/associated-press-reporter-out-after-conservatives-flag-pro-palestine-activism-in-college/>

²² <https://www.thecut.com/2020/06/black-reporter-barred-from-covering-blm-protests-over-bias.html>

²³ <https://www.theguardian.com/commentisfree/2021/mar/30/washington-post-felicia-sonmez-sexual-assault-sexism>

²⁴ <https://lawandcrime.com/high-profile/washington-post-reporter-sues-the-newsroom-and-marty-baron-for-discrimination-claiming-she-was-punished-after-sexual-assault-disclosure/>

²⁵ <https://medium.com/@lewispants/objectivity-is-dead-and-im-okay-with-it-7fd2b4b5c58f>

²⁶ <https://twitter.com/feliciasonmez/status/1376274971207602184>

9. Familial Obligations

Amir is an immigrant to the United States, and has been living in Denver, Colorado, for just over ten years. Both he and his wife work very hard, sometimes holding down multiple jobs each. However, these jobs are low-wage, and the family's expenses are high, especially the medical bills for one of their children, who has a number of health issues. As a result, Amir's family is poor, and they often feel like they are just barely able to make ends meet.

Amir's sister, Yusra, is still in their home country of Lebanon, where she lives with her four children. She is a widow, and Amir and Yusra's elderly mother also lives with her. The poverty they live in is much more severe than any poverty Amir has experienced in the United States and has grown especially dire as the country endures a financial crisis.²⁷ Yusra was thrilled when her brother was finally able to move to the U.S. She was happy for Amir's family, but also her own. She imagined that he would be able to send some money back home to help her larger family there. They all understood that it might take Amir a few years to establish himself, but now that ten years have passed, they are confused and frustrated because he has not sent money. They tend to think that he doesn't sufficiently care for his extended family back home, and they have remarked that he must think he's too good for them now that he has a new life elsewhere.

Everyone back home believes that Amir is quite wealthy because he lives in the U.S. Thus far, he has done nothing to contradict their impression. He would feel embarrassed and humiliated if they found out how much he was struggling financially. He also thinks it would deeply upset his mother to know that her son and grandchildren are suffering. So, Amir continues to let his family believe that he's well-off and thriving in America. At least this way, he reasons, his mom is happy for him and proud that her son is so successful. Amir does sometimes feel terrible for giving his mother a false impression, but he tells himself that there's no point in breaking her heart with the hard truth. He's resigned himself to the thought that when his children want to visit their family back home, they can bring gifts for everyone, but otherwise, he can't contribute much. He certainly won't be sending money regularly. Amir often wonders if he's doing the right thing.

DISCUSSION QUESTIONS

1. Has Amir done anything wrong?
2. Does Amir have an obligation to share details about his financial situation with his sister or mother?
3. Is Amir morally obligated to help his family back home financially? Would a change in his own financial situation change your answer?

²⁷ <https://www.nytimes.com/2021/08/04/world/lebanon-crisis.html?searchResultPosition=8>

10. All Eyes On You

Agustín, 15, is a tenth-grader attending a public school in Charlotte, North Carolina.²⁸ One Saturday evening, he posts a photo on Instagram of himself and a group of his friends (most of whom are also tenth-grade boys) with the caption “Me and The Crew.” The boys in the photo display a variety of hand gestures—peace signs, thumbs-up signs, and other signs whose meanings are unclear. Agustín’s school, which makes use of a third-party social media scanning program, is alerted by the company, whose algorithms have defined the photo as “suspicious.”

Monday morning, his school’s Principal, Mr. Raines, asks the school resource officer (SRO) to question Agustín about the post. Unsatisfied with the explanation that the photo just shows him and his friends enjoying each other’s company, the officer follows Agustín through the halls during class changes. The SRO also reviews footage of Agustín from school security cameras, and Mr. Raines alerts Agustín’s teachers that he is suspected of possible gang involvement. Later that day, Agustín’s smartphone is confiscated by his Biology teacher because he was caught text messaging during class. On Monday evening, while doing homework on his school-issued Chromebook, Agustín confides in a friend via email that he is feeling depressed and anxious about the SRO, and angry at a mutual friend of theirs, Manuel. Within the hour, a different police officer knocks on the door of his home, telling Agustín’s parents that he is there to conduct a “wellness check” based on concerns raised by his email.

The ability of schools to keep tabs on their students is on the rise, particularly in the wake of accelerating technology adoptions brought on by widespread school violence across the U.S., as well as the COVID-19 pandemic. Digital learning platforms like Canvas and Moodle not only streamline students’ assignments and grades, but provide extensive data profiles on millions of students to private corporations each year. Web, email and social media “listening” platforms like Varsity Monitor, Gaggle, and Bark allow administrators to track student communications, web usage, and search histories, in school and out. District-level purchasing of these platforms saw a tenfold increase between 2013 and 2018.²⁹ Cameras and facial recognition technology are now essential parts of schools’ security strategies, with the number of schools conducting video monitoring having risen from 19% in 2000 to 83% in 2018.³⁰

Administrators and district officials often argue that these strategies are common sense measures to keep students safe from harassment, bullying, and gun violence. Critics argue that students’ privacy rights are being violated with invasive technologies whose effectiveness is thus far unproven. Furthermore, for students of color, who often face disproportionate disciplinary measures in schools, new kinds of surveillance may be especially harmful.³¹

DISCUSSION QUESTIONS

1. Is the fact that Agustín was outside school when he sent the email morally relevant?
2. How, if at all, do the privacy rights of minor students differ from those of their adult counterparts? What about those rights associated with freedom of speech?
3. How should schools balance the objectives of student safety with student privacy? What is the relative importance of these goals?
4. When, if ever, are schools justified in disciplinary interventions based on students’ personal communications?

²⁸ This story is adapted from an illustrative compilation of student experiences by Barbara Fedders, “The Constant and Expanding Classroom: Surveillance in K-12 Public Schools,” *North Carolina Law Review* 1673 (2019).

²⁹ <https://www.brennancenter.org/our-work/research-reports/school-surveillance-zone>

³⁰ <https://nces.ed.gov/fastfacts/display.asp?id=334>

³¹ <https://www.theatlantic.com/education/archive/2016/09/when-school-feels-like-prison/499556/>